

RESOLUTION NO. 27-15

A RESOLUTION OF THE CITY OF WEST LAFAYETTE, INDIANA APPROVING AND AUTHORIZING THE EXECUTION OF LEASE AGREEMENTS RELATING TO THE LEVEE/VILLAGE REDEVELOPMENT AREA

WHEREAS, the Common Council of the City of West Lafayette, Indiana (the “Council” and the “City”, respectively) has been presented with a proposed lease between the City and the City of West Lafayette Redevelopment Authority (the “Authority”) attached hereto as Exhibit A and incorporated herein by reference (the “Base Lease”) for the lease of certain roads and related real property interest within the City by the Authority; and

WHEREAS the Council has been advised that the Authority intends to finance and construct certain improvements (such improvements, the “Project”), including improvements on the premises to be leased pursuant to the Base Lease (the “Base Leased Premises”), and lease the Based Lease Premises, as improved by the Project (the “Project Leased Premises”), to the City of West Lafayette Redevelopment Commission (the “Commission”) pursuant to and in accordance with Indiana Code 36-7-14 and 14.5 and the hereinafter defined Project Lease; and

WHEREAS, pursuant to Indiana Code 36-1-11-8 and 36-7-14.5-18, the City may, with the approval of the Commission, lease the Base Leased Premises to the Authority pursuant to the Base Lease upon such terms and conditions as may be agreed upon by the City and the Authority; and

WHEREAS, the Council has been presented with a proposed lease between the Commission and the Authority attached hereto as Exhibit B and incorporated herein by reference (the “Project Lease”) for the lease by the Commission of the Project, including the Project Leased Premises, from the Authority; and

WHEREAS, the Council has been advised that the Commission, following a public hearing thereon, will consider for adoption a resolution authorizing the execution of the Project Lease, finding, pursuant to Indiana Code 36-7-14.5-14, that the lease rental payments to be paid by the Commission to the Authority pursuant to the Project Lease are fair and reasonable and finding, pursuant to Indiana Code 36-7-14-25.2, that the use of the Project, including the Project Leased Premises, throughout the term of the Project Lease will serve the public purpose of the City and is in the best interest of its residents; and

WHEREAS, the Council desires to approve the Project Lease, subject to the condition that the aforementioned resolution of the Commission is adopted by the Commission pursuant to Indiana Code 36-7-14-25.2 which provides that any lease approved by a resolution of the Commission must be approved by an ordinance or resolution of the fiscal body of the unit; and

WHEREAS, to facilitate the sale of and secure the bonds (the “Bonds”) and, if necessary, bond anticipation notes, to be issued by the Authority to finance the costs of the Project, the Commission will pledge to the Authority for payment of lease rentals under the Financing Lease (i) tax increment revenues from the allocation area in the Levee/Village Redevelopment Area

(the “TIF Revenues”), on a parity with the outstanding obligations of the Commission payable therefrom, and, to the extent TIF Revenues are not sufficient, (ii) a special benefits tax levied under Indiana Code 36-7-14-27 (the “District Tax”);

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE, INDIANA, THAT:

1. The Council hereby approves the Base Lease and the Project Lease, subject to the condition that the Commission approves the Base Lease and Project Lease by resolution of the Commission (the “Commission Resolution”). The Secretary of the Commission is hereby directed to file a copy of the Commission Resolution with the Clerk upon its adoption by the Commission. Upon receipt, the Clerk shall and is hereby directed to affix a copy of the Commission Resolution to this resolution.

2. In accordance with Indiana Code 36-7-14-25.2(c), the Council hereby approves the following provisions in connection with the Project Lease and the Bonds: (i) the maximum annual lease rental for the Project Lease is \$685,000; (ii) the maximum interest rate for the Bonds to finance the Project in connection with the Project Lease is 6.5% per annum and such Bonds may be subject to mandatory sinking fund redemption and shall be subject to optional redemption no sooner than eight (8) years after their date of delivery at par value; (iii) the proceeds of the Bonds may be used to fund capitalized interest on the Bonds during the construction phase of the Project; and (iv) the maximum term of the Project Lease is twenty-five (25) years.

3. The Base Lease will serve the public purposes of the City and is in the best of interests of the City’s residents. In light of the Project to be financed and constructed by the Authority, the rental provided under the Base Lease is fair and reasonable, and the execution of the Base Lease is necessary and wise.

4. Subject to prior approval of the Commission, the Mayor and the Controller of the City are authorized to (i) execute and attest the Base Lease and (ii) approve any such amendments, additions, deletions and changes to the Base Lease as they deem necessary or advisable, and their approval shall be signified by their execution of said Base Lease.

5. The Council hereby approves the pledge by the Commission of the TIF Revenues and District Tax for payment of rentals due under the Project Lease.

6. All other resolutions or parts thereof in conflict with the provisions and the intent of this resolution are hereby repealed.

7. This resolution shall be in full force and effect from and after its passage and execution by the Mayor.

**EXHIBIT A**

*Form of Base Lease*

Sponsored by Mayor John Dennis

**EXHIBIT B**

*Form of Project Lease*